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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2013-822

12 **FLORENCE C. PLINCK**  
13 **a.k.a. FLORENCE CONLIN PLINCK**  
14 **Post Office Box 518**  
**Carmel Valley, CA 93924**

**A C C U S A T I O N**

15 **Registered Nurse License No. 706635**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely  
21 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department  
22 of Consumer Affairs.

23 2. On or about July 9, 2007, the Board of Registered Nursing issued Registered  
24 Nurse License Number 706635 to Florence C. Plinck a.k.a. Florence Conlin Plinck (Respondent).  
25 The Registered Nurse License was in full force and effect at all times relevant to the charges  
26 brought in this Accusation and will expire on January 31, 2015, unless renewed.

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**JURISDICTION**

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b), provides:

“The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

5. Section 2750 provides:

“Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus. & Prof Code, § 2700 et seq.)]. As used in this article, “license” includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.”

6. Section 2764 provides:

“The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license.”

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**STATUTORY/REGULATORY PROVISIONS**

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

8. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

...

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

"(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

9. California Code of Regulations, title 16, section 1444, provides in pertinent part:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential

1   unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or  
2   welfare.”

3   10.     Section 490 of the Code provides, in pertinent part, that a board may suspend or  
4   revoke a license on the ground that the licensee has been convicted of a crime substantially  
5   related to the qualifications, functions, or duties of the business or profession for which the  
6   license was issued.

### 7                                   **COST RECOVERY**

8         11.     Section 125.3 of the Code provides, in pertinent part, that the Board may request  
9   the administrative law judge to direct a licentiate found to have committed a violation or  
10   violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
11   and enforcement of the case, with failure of the licentiate to comply subjecting the license to not  
12   being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
13   may be included in a stipulated settlement.

### 14                               **FIRST CAUSE FOR DISCIPLINARY ACTION**

15                               (Unprofessional Conduct – October 24, 2011 Incident)  
16                               (Bus. & Prof. Code §§2761(a))

17         12.     Respondent has subjected her license to disciplinary action for unprofessional  
18   conduct under sections 2761, subdivision (a), in that she engaged in unprofessional conduct by  
19   using alcohol in a dangerous manner. The circumstances are as follows:

20         13.     On or about October 24, 2011, a Carmel Police Officer noticed a vehicle, later  
21   identified as respondent's, traveling northbound on Junipero near Sixth Street. The officer  
22   observed the vehicle straddling the center roadway line which separates the traffic lanes. As the  
23   vehicle reached the stop sign on Junipero and Sixth Street, it stopped in the middle of both lanes  
24   and then began to veer right towards the right roadway edge. The officer noticed respondent  
25   accelerating and swerving her vehicle on more than two occasions. The officer observed that the  
26   vehicle was unable to maintain its lane or stop behind the stop sign limit lines at all intersections.

1 Respondent then made a right turn onto eastbound Third Street from Junipero and as she did, she  
2 made a wide turn and drove into the oncoming traffic.

3 14. Upon observing the above violations, the officer activated his overhead emergency  
4 lights and conducted a traffic stop on respondent's vehicle. As the officer spoke with respondent,  
5 he could smell the odor of alcohol coming from her breath. As respondent spoke, she slurred her  
6 words and her eyes were blood shot and watery. Respondent appeared to be confused as the  
7 officer asked her for her personal and vehicle information. Respondent was having trouble  
8 finding her vehicle information and continued to look through the same areas of the vehicle  
9 several times in a repetitive manner. The officer again asked respondent for the information that  
10 he had initially request and followed up his request by telling respondent where it was located  
11 since he had seen it earlier when respondent was sifting through items in the vehicle's glove box.

12 15. The officer noticed that respondent's fine motor skills appeared to be diminished  
13 as she had trouble manipulating her fingers to grab her identification. The officer then conducted  
14 a preliminary check of respondent's eyes while she was still in the vehicle. The officer explained  
15 the test to respondent and asked her if she understood and respondent stated that she did  
16 understand. The officer observed respondent's eyes and noted her eyes displayed jerky  
17 movements and had noticeable bounce at angle of onset. The officer asked respondent to exit her  
18 vehicle and he noted that respondent was unsteady on her feet. The officer asked respondent  
19 where she was coming from and respondent stated she was out in the "valley" at a friend's house  
20 and then went to Flannigan's bar in the Crossroads in Carmel. Responded stated that she had  
21 consumed four beers earlier in the day at her friend's house and had two beers at the bar. The  
22 officer asked respondent if she felt the effect of those beers and respondent stated she was  
23 definitely "buzzed" and was just driving home. Respondent told the officer that she was one  
24 block away and that he should just let her go or just let her park her car.

25 16. The officer had respondent perform several field sobriety tests, but respondent  
26 unsuccessfully performed them. Due to respondent's objective signs of intoxication, her  
27 statements, and her performance of the field sobriety tests, the officer placed respondent under  
28 arrest for driving while under the influence of alcohol. The officer transported respondent to the

1 police station where she submitted to a chemical breath test. Respondent gave two successful  
2 blows resulting in a reading of .23% and .23%.

3 **SECOND CAUSE FOR DISCIPLINE**  
4 **(Substantially Related Conviction)**  
5 **(Bus. & Prof. Code §§ 490, 2761, subd. (f))**

6 17. Complainant realleges the allegations contained in paragraphs 13 through 16  
7 above, and incorporates them by reference as though fully set forth.

8 18. Respondent has subjected her Registered Nurse License to discipline under Code  
9 sections 490 and 2761, subdivision (f), as defined by California Code of Regulations, title 16,  
10 section 1444, in that she engaged in unprofessional conduct when she was convicted of a crime  
11 substantially related to the qualifications, functions, or duties of a vocational nurse. The  
12 circumstances are as follows:

13 19. On or about February 14, 2012, in a criminal proceeding entitled *The People of the*  
14 *State of California v. Florence C. Plinck*, in the Monterey County Superior Court, Case Number  
15 MS300623A, Respondent was convicted by plea of nolo contendere to one count of violating  
16 Vehicle Code section 23152, subdivision (a) (driving while having a 0.08 or higher blood  
17 alcohol). Respondent was placed on three years summary probation which included the  
18 following terms: (1) attend and complete the First Offender Drinking Driver's Program; (2)  
19 abstain from driving a motor vehicle unless properly licensed and insured; (3) abstain from  
20 driving with any alcohol in system; (4) abstain from driving any vehicle without properly  
21 installed Interlock Device; (5) must submit to a chemical test and field sobriety tests upon request  
22 of any peace officer; and (6) pay fines in the amount of \$1,886.00.

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**THIRD CAUSE FOR DISCIPLINE**  
**(Conviction of a Crime Involving the Self-Administration of Alcohol)**  
**(Bus. & Prof. Code § 2762, subd. (c))**

20. Complainant realleges the allegations of paragraphs 13 through 19 above, and incorporates them by reference as if fully set forth.

21. Respondent has subjected her Registered Nurse License to disciplinary action under sections 2762, subdivision (c), in that she was convicted of a crime involving the self-administration of alcohol. The circumstances are set forth above in paragraphs 13 through 19.

**FOURTH CAUSE FOR DISCIPLINE**  
**(Unprofessional Conduct – Dangerous Use of Alcohol/Abstaining from Chemical Abuse)**  
**(Bus. & Prof. Code § 2762, subd. (b))**

22. Complainant realleges the allegations of paragraphs 13 and 16 above, and incorporates them by reference as if fully set forth.

23. Respondent has subjected her Registered Nurse License to disciplinary action under sections 2762, subdivision (b), for engaging in unprofessional conduct by using alcohol in a dangerous manner. As set forth in paragraphs 13 through 16 above, respondent was convicted for driving while under the influence of alcohol.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters alleged here, and that following the hearing, the Board of Registered Nursing issue a decision:

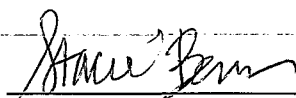
1. Revoking or suspending Registered Nurse License Number 706635, issued to Florence C. Plinck a.k.a. Florence Conlin Plinck;

2. Ordering Florence C. Plinck a.k.a. Florence Conlin Plinck to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: MARCH 26, 2013 *for*   
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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